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COMMENT:

NOV 24 2004

Docket No. 12969-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Bitler et al

Group Art Unit: 1714

Serial No.: 09/810,920

Examiner: Peter Szekely

Filing Date: March 16, 2001

Title: Polymeric Thickeners for Oil-containing Compositions

Office of Petitions

by fax to 703-872 9306

Commissioner for Patents

P.O. Box 1450, Alexandria, VA 22313-1450

REQUEST FOR DECISION ON PREVIOUSLY-FILED PETITION

This is a request for a decision on a petition filed October 25, 2001.

On October 25, 2001, Applicant mailed a paper entitled Petition to Award Additional Priority Claim under 37 CFR 1.55, together with a Declaration and Power of Attorney setting out the priorities claimed for this application, namely priority under 35 USC 120 from US Serial No. 09/398,377, filed September 17, 1999, and priority under 35 USC 119 from International Application No. PCT/US 00/40780, filed August 30, 2000. The specification originally filed with this application correctly states, on page 1, lines 5-9, that those two priorities are claimed. However, the Declaration filed with the application did not refer to either of these priorities and the transmittal letter filed with the application referred only to the US priority. The Office issued a Filing Receipt listing the US priority only. The Petition and the revised Declaration were filed in order to claim the priority of the PCT application under 35 USC 119.

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this paper is being sent by facsimile transmission to the United States Patent and Trademark Office (703 872 9306) on November 24, 2004

Typed name of person signing this certificate: T. H. P. Richardson Reg No. 27805, Tel No. 650 854 6304

Signature



Reviewing the Petition, it has been noted that the Petition incorrectly states that the priority claim (to the PCT application under 35 USC 119) was "made after the filing date and subsequent publication of the application of August 30, 2001". That was not correct. The application as filed did expressly and correctly set out (on page 1 of the specification) the priorities that were claimed. The Petition should, therefore, more correctly state that the Declaration filed with the application mistakenly omitted reference to the priorities set out in the specification, and that the revised Declaration was being filed in order to correct that mistake.

Applicant has previously made a number of unsuccessful attempts to obtain a decision on the Petition, namely: -

- (1) Page 21 of the Reply mailed February 28, 2002, presents the facts noted above and asks that the Examiner, or other person responsible for responding to the Petition, should contact the undersigned by telephone if further action was needed in order to confirm that both priorities had been properly claimed.
- (2) Page 27 of the Reply mailed June 22, 2002, draws attention to the request in the previous Reply and asks the Examiner to review the papers and confirm that both priorities had been properly claimed.
- (3) Page 30 of the Reply mailed September 27, 2002, repeats (2).
- (4) Page 42 of the Reply mailed January 27, 2003, repeats (2).
- (5) A Request for Decision on previously-filed Petition, and for Corrected Filing Receipt (attention Petitions Branch) was mailed on June 17, 2003.
- (6) Page 22 of the Reply mailed March 4, 2004, notes that no response has been received to the previously-filed Petition and the associated Request for Decision on Previously-filed Petition and for Corrected Filing Receipt, and asks the Examiner to take the appropriate action to resolve these outstanding matters.

Respectfully submitted,



T.H.P. Richardson, Reg. No. 28805

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